

**John D. Parsons**, OSB # 92423  
E-Mail: [jparsons@pfglaw.com](mailto:jparsons@pfglaw.com)  
**Charles J. Paternoster**, OSB # 024186  
E-Mail: [cpaternoster@pfglaw.com](mailto:cpaternoster@pfglaw.com)  
PARSONS FARNELL & GREIN, LLP  
1030 SW Morrison Street  
Portland, Oregon 97205  
Telephone: (503) 222-1812  
Facsimile: (503) 274-7979  
Of Attorneys for Defendant Senvoy, LLC

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**SUMNER P. WALTERS,**

Case No.

Plaintiff,

NOTICE OF REMOVAL

v.

**SENVOY, LLC,**

Defendant.

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that, pursuant to 28 USC §§ 1441 and 1146, Defendant Senvoy, LLC, hereby removes to this Court the case now pending in Multnomah County Circuit Court as *Sumner P. Walters v. Senvoy, LLC*, Case No. 0710-11790.

As grounds for removal, Defendant Senvoy, LLC states as follows:

1. On October 15, 2007, plaintiff Sumner P. Walters filed a complaint in this action in Multnomah County Circuit Court entitled *Sumner P. Walters v. Senvoy, LLC*, Case No. 0710-11790. Pursuant to 28 USC § 1446(a), a copy of all process, pleadings, and orders served upon and/or provided to the defendant at the time of removal, consisting of (1) summons, (2)

complaint, (3) request for production with correspondence from plaintiff's attorney, (4) proof of service with correspondence from plaintiff's attorney, are attached as Exhibits 1-4.

2. This Notice of Removal is timely filed under 28 USC § 1446(b), which provides that a notice of removal must be filed within 30 days after a defendant receives, by service or otherwise, the initial pleading. As of the date of filing this Notice of Removal, defendant had been served with process and/or otherwise provided with a copy of a summons and complaint. This action was filed on October 15, 2007, and the earliest defendant was provided with a copy of the complaint was October 15, 2007.

3. No further proceedings have been had in the Circuit Court of Multnomah County, Oregon, as of the date of filing of this removal.

4. This is a civil action over which this court has original jurisdiction pursuant to 28 USC § 1331. This action may be removed pursuant to 28 USC § 1441(b) because two of the claims asserted in this action arise under federal statutes, specifically the Fair Labor Standards Act, 29 USC § 201 et seq.

REMOVAL TO THIS DISTRICT IS PROPER.

5. Pursuant to 28 USC §§ 1331, 1441, and 1446, removal of the above-captioned state court action to this Court is appropriate.

6. Pursuant to 28 USC § 1441(a), removal is made to this Court as the district and division embracing the place where the state action is pending.

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7. Defendant Senvoy, LLC, is providing to the plaintiff, through his counsel, written notice of the filing of this Notice of Removal. Furthermore, Defendant Senvoy, LLC is filing a copy of this Notice of Removal with the Clerk of the Circuit court of Multnomah County, Oregon, where the action is currently pending.

DATED this 13<sup>th</sup> day of November, 2007.

PARSONS FARNELL & GREIN, LLP

By: 

John D. Parsons, OSB #92423

E-Mail: [jparsons@pfglaw.com](mailto:jparsons@pfglaw.com)

Charles J. Paternoster, OSB # 024186

E-Mail: [cpaternoster@pfglaw.com](mailto:cpaternoster@pfglaw.com)

Telephone No.: 503-222-1812

Facsimile No.: 503-274-7979

Of Attorneys for Defendant Senvoy, LLC

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

SUMNER P. WALTERS  
Plaintiff,

No. 0710-11790

-vs-  
SENVOY, LLC  
Defendant.

SUMMONS

To: DAVID E GREIN, RA, SENVOY, LLC  
1030 SW MORRISON, PORTLAND OR 97205

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically.

To "appear" you must file with the court a legal paper called a "motion" or "answer."

The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee.

It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney,

proof of service upon the plaintiff. PORTLAND, OREGON 97205 (503) 223-6066

If you have any questions, you should see an attorney immediately. If you need help finding an attorney, you may call

Oregon State Bar's Lawyer Referral Trial Attorney (if other than above) Bar No.

Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

State of Oregon, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

Attorney of record for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom this summons is directed, and to make your proof of service on a separate document which you shall attach hereto.

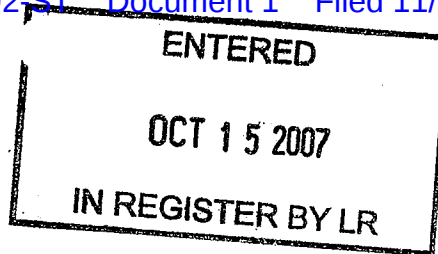
Attorney for Plaintiff

ANN BERRYHILL WITTE, Attorney at Law  
812 SW Washington, #910  
Portland, Oregon 97205  
(503) 223-6066

EXHIBIT

PAGE

OF



FILED

2007 OCT 15 PM 2:04

CIRCUIT COURT  
FOR MULTNOMAH COUNTY  
IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY  
**11790**

SUMNER P. WALTERS  
Plaintiff,  
-vs-  
SENVOY, LLC  
Defendant.

No. **0710-11790**  
COMPLAINT (Wages)  
OVER \$10,000  
ARBITRATION ELIGIBLE

## Common Allegations:

1.

Between Oct. 3, 2005 and March 6, 2007, Defendant has been engaged in the parcel delivery business, operating a dispatch office at 1215 SE 8th Ave., and later at 115 SE Yamhill St., Portland, Multnomah County, Oregon. Defendant employed Plaintiff in that business during that time. At the time Plaintiff was hired, he agreed to a wage of \$7.25 per hour. The wage increased to \$7.50 on Jan. 1, 2006, and to \$7.80 on Jan. 1, 2007.

2.

Plaintiff was required to drive his own vehicle to pick up and deliver parcels. Senvoy's agent agreed to reimburse Plaintiff for automobile expenses. In addition, Senvoy's agent agreed to pay Plaintiff a commission of 50% of each delivery fee.

3.

During the entire time Plaintiff was employed by Defendant, Defendant did not keep accurate records of Plaintiff's hours of work and did not pay Plaintiff minimum wages and overtime wages as required by Oregon law, or commissions as promised.. Plaintiff is entitled to attorney fees under ORS 652.200(2) and ORS 653.055(4).

ANN BERRYHILL WITTE, Attorney at Law  
812 SW Washington, #910  
Portland, Oregon 97205  
(503) 223-6066

EXHIBIT

PAGE 1 OF 4

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4.

Plaintiff caused a demand letter to be sent to Defendant on March 12, 2007, and Defendant paid some wages, in the amount of \$592.80 on March 14, 2007. Defendant has not paid the remainder of wages due, or any penalty wages.

For his first claim for relief, Plaintiff alleges:

5.

Defendant failed to pay \$11,952.88 in state-required minimum wages. Plaintiff is entitled to penalty wages of \$1,872.00 in addition to his unpaid minimum wages.

For his second claim for relief, Plaintiff alleges:

6.

Defendant failed to pay Plaintiff \$1,218.92 in state-required overtime wages. Plaintiff is entitled to penalty wages of \$1,872.00 in addition to his unpaid overtime wages.

For a third claim for relief, Plaintiff alleges:

7.

When Plaintiff was discharged from employment on March 6, 2007, Defendant did not pay his wages or commissions by the end of the next business day.

8.

Plaintiff is entitled to penalty wages of \$1,872.00 for failure to pay upon discharge.

For his fourth claim for relief, Plaintiff alleges further:

9.

During the time Plaintiff worked for Defendant, Defendant failed to pay commissions of approximately \$10,000.00 to which Plaintiff is entitled.

For his fifth claim for relief, Plaintiff alleges further:

10.

During the time Plaintiff worked for Defendant, Defendant failed to pay federal-

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EXHIBIT

PAGE

2

OF

4

1 required minimum wages. Defendant owes Plaintiff \$5,213.18 in federal-minimum wages  
2 and Plaintiff is also entitled to liquidated damages of \$5,213.18.

3 For his sixth claim for relief, Plaintiff alleges further:

4 11.

5 During 2006 and 2007, Defendant failed to pay Plaintiff federal-required overtime  
6 pay in the amount of \$1,218.92. Plaintiff is entitled to that amount together with liquidated  
7 damages of \$1,218.92.

8 For his seventh claim for relief, Plaintiff alleges further:

9 12.

10 On or about March 5, 2007, Defendant employed 25 or more persons in the State of  
11 Oregon for each working day during each of 20 or more calendar workweeks. On or about  
12 March 5, 2007, Plaintiff gave oral notice to Defendant's agent that he was unable to come  
13 to work because his child was ill and needed him to provide home care.

14 13.

15 Defendant then and there committed the unlawful employment practice of refusing  
16 to allow Plaintiff to exercise his right to family leave, and terminated Plaintiff's contract of  
17 employment. Plaintiff was injured and is entitled to reinstatement in his former position  
18 with back pay.

19 Wherefore, Plaintiffs pray for judgment against Defendant as follows:

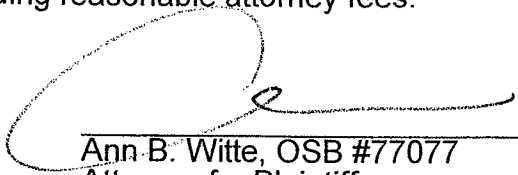
- 20 1. On his first claim, \$11,952.88 plus \$1,872.00;  
21 2. On his second claim, \$1,218.92 plus \$1,872.00 ;  
22 3. On his third claim, \$1,872.00;  
23 4. On his fourth claim, \$10,000.00;  
24 5. On his fifth claim, \$5,213.18 plus \$5,213.18;  
25 6. On his sixth claim, \$1,218.92 plus \$1,218.92;

26  
27 ANN BERRYHILL WITTE, Attorney at Law  
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28 Portland, Oregon 97205  
(503) 223-6066

1 7. On his seventh claim, reinstatement with back pay, and

2 8. Costs and disbursements including reasonable attorney fees.

3 Dated: October 15, 2007

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5 Ann B. Witte, OSB #77077  
6 Attorney for Plaintiffs  
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27 ANN BERRYHILL WITTE, Attorney at Law  
28 812 SW Washington, #910  
Portland, Oregon 97205  
(503) 223-6066



*docketed*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

SUMNER P. WALTERS  
Plaintiff,  
-vs-  
SENVOY, LLC  
Defendant.

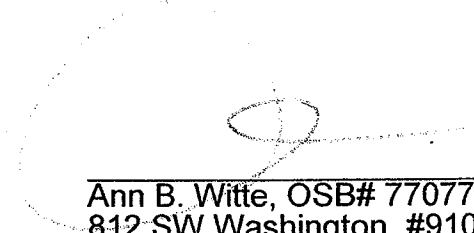
No. 0710-11790  
REQUEST FOR PRODUCTION

TO: Senvoy, LLC, through your attorney, John D. Parsons:

Pursuant to ORCP 43, defendant requests that plaintiff produce for inspection and copying, by Nov. 26, 2007, at the offices of ANN BERRYHILL WITTE, 812 SW Washington, #910, Portland, OR 97205, the documents set forth below.

1. Any written employment contract between the parties; or written policy.
2. Record of payments by Senvoy to Plaintiff, including copies of all checks, all calculations of amounts to be paid and deductions therefrom, and particularly including all calculations of mileage reimbursements and commissions.
3. Documents of Plaintiff's employment record which are used or have been used to determine the employee's qualification for employment, promotion, additional compensation or employment termination or other disciplinary action.
4. All records of mileage traveled by Plaintiff, The actual hours worked each week and each pay period by Plaintiff

Dated: November 6, 2006

  
\_\_\_\_\_  
Ann B. Witte, OSB# 77077  
812 SW Washington, #910  
Portland, OR 97205  
(503) 223-6066  
Fax: (503) 223-0903

ANN BERRYHILL WITTE, Attorney at Law  
812 SW Washington, #910  
Portland, Oregon 97205  
(503) 223-6066

RECEIVED

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EXHIBIT

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PARSONS FASIEL & BERRYHILL

C

**ANN BERRYHILL WITTE, Attorney at Law**

812 SW Washington, #910  
Portland, Or 97205  
(503) 223-6066  
Fax: (503) 223-0903

Nov. 5, 2007  
~~October 22, 2007~~

John D. Parsons  
1030 SW Morrison St.  
Portland, Or 97205

RECEIVED

NOV - 7 2007

Re: Walters v. Senvoy, LLC

PARSONS FARNELL & GREIN, LLP

Dear Mr. Parsons,

Because of the length of time Mr. Walters worked for Senvoy, the records are voluminous. I am willing to devote some time to discovery before insisting on an answer. I enclose a copy of our proof of service and our first request for production of documents.

I also look forward to working with you on this interesting case.

Sincerely,

ANN BERRYHILL WITTE  
Attorney at Law

EXHIBIT 3  
PAGE 2 OF 2

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

SUMNER P. WALTERS

Plaintiff,

-vs-

SENVOY, LLC

Defendant.


No. 0710-11790

PROOF OF SERVICE

I, Gordon Sylstad, a competent person 18 years of age or older, resident of Oregon, and not a party to nor an officer, director, or employee of, nor attorney for any party, served a true copy of the Summons and complaint in this matter on Senvoy, LLC, the same person named in this action, by delivering said copies to Karly, the person apparently in charge of the office of David E. Grien, Agent for service of process on Senvoy, LLC. on October 15, 2007 at 2:20 p.m. at 1030 SW Morrison, Portland, Oregon.

I am informed and believe that Ann Witte sent a followup mailing, copy attached, which completed service on October 16, 2007

Dated: October 16, 2007

  
\_\_\_\_\_  
Gordon Sylstad  
812 SW Washington, #910  
Portland, OR 97205

ANN BERRYHILL WITTE, Attorney at Law  
812 SW Washington, #910  
Portland, Oregon 97205  
(503) 223-6066

EXHIBIT

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OF

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**ANN BERRYHILL WITTE, Attorney at Law**

812 SW Washington, #910

Portland, Or 97205

(503) 223-6066

Fax: (503) 223-0903

October 16, 2007

DAVID E GREIN, RA, SENVOY, LLC  
1030 SW MORRISON ST.  
PORTLAND OR 97205

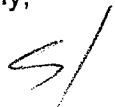
Re: Walters v. Senvoy LLC , Mult. Co. 0710-11790

Dear Senvoy,

Your registered agent was served , by office service given to Karly, with true copies of the Summons and Complaint in the above-referenced matter on Monday, Oct. 15, 2007 at 2:20 pm.

By this mailing, I complete service.

Sincerely,



ANN BERRYHILL WITTE  
Attorney at Law

EXHIBIT

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PAGE 2 OF 2

CERTIFICATE OF SERVICE


I hereby certify that the foregoing NOTICE OF REMOVAL was served on:

Ann Berryhill Witte  
Attorney at Law  
812 SW Washington # 910  
Portland, OR 97205  
Fax: (503) 223-0903  
E-mail: [awitte@ipns.com](mailto:awitte@ipns.com)

by the following indicated method or methods:

- X   by **mailing** a full, true and correct copy thereof in a sealed, first-class postage-paid envelope, and addressed to the attorney as shown above, to the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.
- by **faxing** a full, true and correct copy thereof, addressed to the attorney as shown above, to the facsimile number of the attorney on the date set forth below.
- by causing a full, true and correct copy thereof to be **hand-delivered** to the attorney at the attorney's last-known office address listed above on the date set forth below.
- by sending a full, true and correct copy thereof via **overnight courier** in a sealed, prepaid envelope, addressed to the attorney as shown above, to the last-known office address of the attorney, on the date set forth below.
- by **transmitting with electronic mail** a full, true and correct copy thereof to the attorney at the e-mail address number shown above, which is the last-known e-mail address for the attorney's office, on the date set forth below.

Dated this 13<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_  
John D. Parsons, OSB #92423  
E-Mail Address: [jparsons@pfglaw.com](mailto:jparsons@pfglaw.com)  
Charles J. Paternoster, OSB #024186  
E-Mail: [cpaternoster@pfglaw.com](mailto:cpaternoster@pfglaw.com)  
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Of Attorneys for Defendant Senvoy, LLC